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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 442,256	11 17 1999	TESFAYE ZERIHUN YIGZAW	38179 190315	5583

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TESFAYE Z. YIGSAW
631 GLASTONBURY RD.
NASHVILLE, TN 37217

EXAMINER

LILLING, HERBERT J

ART UNIT	PAPER NUMBER
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1651

23

DATE MAILED: 05/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

Applicant(s)

09/442,256

YIGZAW, TESFAYE ZERIHUN

Examiner

Art Unit

HERBERT J LILLING

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 4-6, 8, 9, 12-14, 22, 24-26, 29, 32, 36, 38-40 and 54-72 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 8-9, 12-14, 24-26, 38-40 and 55-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 22, 29, 36 and 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 4-6, 8-9, 12-14, 24-26, 38-40 and 55-72 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. Receipt is acknowledged election filed December 08, 2001.

2. Claims 4-6, 8-9, 12-14, 22, 24-26, 29, 32, 36, 38-40 and 54-72 are pending in this application.

Claims 22, 29, 36 and 54 are drawn to the elected invention(s).

Claims 4-6, 8-9, 12-14, 24-26, 38-40 and 55-72 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention or species, there being no allowable generic or linking claim.

Claims 1-3, 7, 10-11, 15-21, 23, 27-28, 30-31, 33-35, 37 and 41-53 have been previously cancelled.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 22, 29, 36 and 54 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not support the claimed subject matter with respect to the broad claimed solvent since the examples are only drawn to specific organic solvents.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 29, and 54 stands rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Suffness et al NAPRALERT 92:92342 (Reference W) or Kokwaro NAPRALERT 92:32733 (Reference X) and over Ageel et al BIOS ABSTRACT BA89:92285, Kavimani et al CABA ABSTRACT 2000:53058 or Shah et al SCISEARCH ABSTRACT 91:548657 [Applicant has again reinserted claims drawn to species within the scope of the prior art].

Each of the references teaches an organic polar solvent extract of *Hagenia Abyssinica* which anticipates the claimed inventions or render the claims obvious for the separation of the extract absent a showing of unexpected or unobvious process steps.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 22, 29, and 54, are rejected under 35 U.S.C. 103(a) as obvious over Suffness et al NAPRALERT 92:92342 (Reference W) or Kokwaro NAPRALERT 92:32733 (Reference X) and over Ageel et al BIOS ABSTRACT BA89:92285, Kavimani et al CABA ABSTRACT 2000:53058 or Shah et al SCISEARCH ABSTRACT 91:548657.

Each of the references teaches an organic polar solvent extract of Hagenia Abyssinica or Glinus lotoides or Ruta chalepensis which anticipates the claimed inventions or render the claims obvious for the separation of the extract absent a showing of unexpected or unobvious process steps. It would have been prima facie obvious to one of ordinary skilled in the art to add additional solvent to a crude extract to obtain additional extract to increase the yield of the product.

6. **No claim is allowed.**

Will consider allowing claim 36 with the elected plant and polar organic solvent.

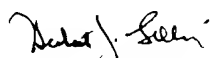
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Examiner Lilling whose telephone number is (703) 308-2034** and **Fax Number** is for applications **Before Final** (703) 872-9306 and **After Final** for applications is 703-872-9307 or SPE Michael Wityshyn whose telephone number is (703) 308-4743. Examiner can be reached Monday-Thursday from about 5:30 A.M. to about 3:00 P.M. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

H.J.Lilling: HJL

(703) 308-2034

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May 27, 2003



Dr. Herbert J. Lilling

Primary Examiner

Group 1600 Art Unit 1651